Previous references.
B·27-09·10·881-4-B·May10
B·48-09·881-2·B·Nov'10 1909-10
(Banking)

File No. 48-09
Serial Nos. 3 to 4

Later references.
G.Fe. 1914-15 Sh 182,
J. March 16.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 3 to 4.

Part B. for January 1911

SUBJECT.

Regarding the amendment of rule 239 the State Life Insurance rules.

3- To the 1st asst·Resident · No·Pol · 1046 d·9-6-1
Requests to be informed whether the bonus payable under the Postal Insurance Scheme on the several Service & deposit funds are allowed to be set off against an sum due by the Insured or Depositor to Govt and if so to be favoured with the rules on the subject

~~U. H. S. 88~~
4. From the 1st asst Resident No·4318 d·19·7·10
Forwards copy of letter received from the Chief Supdt · Accts General's Office for information in reg and to the above

H Insc 207-10

G.R.S. 11] 190 9-10

GENERAL AND REVENUE SECRETARIAT.

(Banking

NOTES.

File No. 48

File Heading.

Amendment of rule 23 of the State Life Insurance rules.

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies	Serial No.

Brief Abstract of Letter.

NOTES AND ORDERS.

Notes—First sheet

GPB—30,000—3-4-07

Serial No.

Copy of notes from B 27-09
Sls 1884. B dmy 1910. pages 13 to 21

Q

1 It has been usual to deduct all moneys due to Government (whether in connection with insurance prémia or otherwise) from the bonus payable, under rule No.23 of the Insurance Rules. This rule is worded in such a manner as to make this practice quite legal. The Government Advocate's opinion seems therefore to be right.

2 I think however that the rule has to be altered so as to render it more in conformity with equitable considerations. That Government has a certain priority over private creditors is a well known rule of law. It is recognised (e.g.) in Section 356 of the Code of Civil Procedure with reference to the distribution of the insolvent assets. But Section 162 of the Revenue Code shows that Government does not retain any privilege for itself as to the kinds of property that may be attached for its debts.

3 Under Regulation VI of 1901, Government thought it fit to legislate that any bonus payable to, or paid thereunder to (an insured)officer or to his representative after his death, should not be liable to attachment or sale under the Code of Civil Procedure. It may be open to question whether this exception has not been made unnecessarily wide, in protecting the bonus payable to the man himself, or whether it is not likely to ginve room to difficult (and often insoluble) disputes when the money that has been paid to the insured is also protected. Whatever that may be, it is clear that if the money

GPB—56,000—27.4.09

was

Serial No.

was in the hands of an independent third party , it would not be available to satisfy the demands of the Government.

4 Why then should it make a difference, when the money of the Insurance department is in the possession of Government and is administered by officers of Government ? The object of the scheme of insurance was not to force all Government officers to deposit 10% of their salaries as caution money to answer for their debts and defaults. It is only certain officers who deal directly with Government money or property that are bound to furnish security ; and there can be no excuse for Government to compell all others to do so. The only object of the compulsory Scheme of insurance, and the only excuse for it is that it is meant to secure a provision against old age and premature death. If on account of the importance of this object, Government has thought fit to prevent private creditors, who are generally much less capable of standing such losses than the Public Treasury, from having recourse to this property, it is much more in accordance with fitness of things, that Government should not reserve any privilege to itself in this respect.

5 On these grounds, I suggest that rule 23 may be altered, so as to reserve the right of set off in favor of the Insurance Fund only. Though Government is the custodian and administrator, I think most strongly that we are morally bound to treat this fund as an altogather independent entity.

11-3-10. (Intld)H.V.N.

GPB—55,000—27.4.09

G.R.S. 12]
General and Revenue Secretariat.

B File No. 48 of 1909

	Serial No.	
(I)		6 In the case of Treasurer Raghavendrappa, was the Insurance compulsory or optional?
		7 The State Life Insurance system is in force in some of the Departments in British India. What is
(2)		the law and practice there with regard to sums due from insured official to Government?
		8 Pending the decision of this question, the present case may be decided in accordance with the existing rule and practice as interpreted by the Government Advocate, with which interpretation I agree. The amount of bonus may be appropriated in part payment of the large debt due by him to Govern-ment.
		15-3-10. (Intld)K.P.P.
(I)		9 Insurance was not compulsory on Ragavendrappa as he had entered service long before 1st December 1891 from which date the insurance rules became binding on all persons entering service subsequent to that date.
		10 Information on point No.2 is not readily avail-able and, if necessary, a reference will be made to the Residency for getting us the information wanted.
		16-3-10 (Intld)M.N.K.
		Genl Secy.
		1st Councillor for perusal.
		17-3-10 (Intld)C.S.B.
		// Seen-thanks.
		/2 After the present case is disposed of, the information asked for by me may be gathered in connection

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

connection with the suggested amendment of the rule

17-3-10 (Intld)K.P.P.

Dewan)

(Intld) C.S.B.

18-3-10

B

1. The proposed set off may be sanctioned

2. After this case is thus disposed of the larger question of amending the rule raised in the Councillors' notes should be taken up.

(Intld)T.A.R

28th April 1910

14 with reference to the last Govt query in page 3 supra as to what is the law & practice in British India with regard to sums due from insured officers to Govt & draft to the Residency Surgeon for the necessary information

Back 15 C.B.P. 6/6/10 In the Govt of India, there is the Postal Insurance Scheme and Provident Service Deposit funds under the Control of Govt in which the officers participate. There is nothing as a State life Insurance Scheme Comptroller's letter as above. A revised draft is submitted for orders.

(Secy)

Issue 4/6/10

8/6/10 4/6/10

Note—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

B File No. 48 of 1909

Serial No.	
3	To the Asstt Resident No Pol 1046 dt 9-6-10 Requests to be informed whether the bonus payable under the Postal Insurance scheme or the General Service & Deposit funds are allowed to be set off against any sum due by the Assured on Deposition to Govt & if so to be favoured with the rules on the subject.
4	From the Asstt Resident No 4318 dt 19-7-10 Forwards copy of letter recd from the Chief Supdt Asstt Jenrals office for information in regard to the above query.
16	The Supdt Accountant Jenrals office says that he does not find that bonuses as under the Postal Insurance Schemes are payable under the rules of the providend funds Subject to the audit of his

NOTE—Contn. sheet.

GPB—38,000—27.4.09

Serial No.

office. There is something however — and this is we want — for our information in the Post Master Generals letter — which is that the premia paid by an assurant to the Postal Life Insurance Fund can only be attached under an order from a competent Court of Law. It is then for consideration whether such attachments under our Insurance Scheme should not be similarly supported by a Court order.

This Cannot be done under our law. mk

Sd/ 20/7

It apparently the word Bonus is not understood in the same sense as it is here. It is clear from the 2nd para of the P.M.G's memo that the "value of the policy" — which is our "Bonus" cannot be set off against any sum due by the assurer.

mk 20/7/10

It would be better if we clear the ground completely by explaining ourselves more clearly & asking whether the amount

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Serial No.

assured under the Postal Insurance and the amount payable to the Depositor in the various Provident and other Funds can be set off against any dues to Govt. by the Depositor or the Insured whether the dues arose out of the discharge of his duties or otherwise. If however such a reference be deemed unnecessary in view of the statement made in Para 2 of the Post Master Generals letter, then it follows that the practice in British India is different from ours.

In this Connection it is most respectfully submitted that man is homo duplex, plures personas and that in each of that personality a man might have rights and obligations. To hold that obligation incurred in a different Capacity is equally well made good out of any right acquired in quite another Character is perhaps not quite equitable. The Insurance sums or premia paid is not a security for good behaviour nor is it a sinking fund to meet contingent dues on the part of an Insured. He ought to set off should therefore be in favour of the Insurance fund on Govt. and no other set off

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

B File No. 48 of 1909

Serial No.

Stored, this submitted, be allowed & kept under the orders of Court of Competent jurisdiction (allowing attachment of Wages for maintenance of plaintiff & children)

22.7.10

20 Does the British Indian Code of Civil Procedure contain any provision exempting Provident Fund & Pension & Gratuity deposits etc — whether in Govt or private funds — from attachment? Please look up & note.

11/8/10

To the General Records for kind compliance

17/8.

21 Pensions payable out of any "Service family fund" notified by Govt as exempted are not liable to attachment. Please see section 60 (b) of the new Code.

22/8/10.

(children)

Has any such notification been issued?

22.8.10.

22 The file relating to exemption from attachment of the bonus due under the Bijapur Insurance & Savings Scheme is submitted as directed. The Statement of Objects & Reasons clearly explains

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

B File No. 68 of 1909

P 9

Serial No.

A

Whether registration was necessary
Section 6 Part III of 1874 is precise &
may fitly be read in this connection —
(Baldeo) 4/21.9.10

2. The general question may now be dealt with. It is only reasonable that Govt should not be in any way take undue advantage of its position as the custodian of the Insurance Fund. Rule 23 of the Insurance Rules may be amended so as to permit only sums due to the Insurance Fund itself by the insured (such as arrears of premia, interest thereon etc) to be deducted from the sum assured before payment.

(Dewan through cs) CBS 5/11/10

Ho 5.11.10

1185
8.11.10

The opinion of the Financial Secretary may be obtained

KBS 8/11/10

BR CBS Baldeo

(Baldeo) 8.11.10

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

In my opinion no change in the rule is called for. The Govt. insurance rules are not exactly like the rules of private companies. They have been framed with special reference to the relation viz. employer and employed, between the two parties. The rules allow many facilities & benefits to the insured on account of this special relation[x] and Rule 23 is one of the counterbalancing advantages justly reserved for Government.

M
9/11/10

[x] e.g. Rules 10 & 25 under which arrears of premium are treated as debt. In private companies the policies would be forfeited under the circumstances. M

1860
12.11.10

I agree with the Financial Secretary. The present rule is a wholesome one and has worked well in practice. Suppose the insurant is found guilty of defalcation of Govt money. Is there anything wrong in regarding the defalcated amount

GPB—55,000—27-4-09

Serial No.

being made good from the amount of bonus. In fact such a rule is a guarantee of good conduct on the part of the insurant. -

In British India apparently the bonus is liable to attachment by civil Courts - a great point was conceded to the insurant when this liability was removed - It is independent to carry the concession to further lengths

W H
12/11/10

(A)

I fail to understand ~~where~~ ~~concession (i.e.~~. The prohibition against attachment by Civil Courts may be a concession to a debtor (who has insured) but it is given at the expense of the Creditor. At any rate, Government which has framed the rules, and

786

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

B File No. 48 of 1909

Serial No.

administers the ~~Co~~ insurance fund cannot take ~~grant~~ credit for any generosity in granting such a Concession.

When the bonus is paid over to the Insured himself when he retires at 55 it is but just that all claims of the Govt against him should be set-off. But if he dies before 55 and the bonus has to be paid to his nominees or heirs, Govt should have no power to make deductions on account of any demands not relating to the particular Contract of insurance. To this extent, the rule ought in justice to be amended

17/11/10

Dewan

8835
22-11-10

NOTE— Contn. sheet.

GPB—50,000—12-8-10

18/11/10 18/11/10

21

Serial No.

It seems to me that in this matter there is no standard of abstract justice or equity. It is a mere matter of contract and a correct mutual understanding of the terms of that contract. If all insured persons have understood Rule 23 to mean what it has hitherto been understood to mean, there can be nothing wrong in enforcing that meaning. And none of them has complained of it.

H. Mis. '07

The matter may perhaps be dropped.

2nd Cr

1151. In connection with facilities afforded in favour of insurance contracts we have not always been led by considerations of mere Contract. It seems to me that the question does involve a principle of justice and equity. In cases in which the rules of the Service do not require security being taken, why should Govt force its employes to insure them

GPB—60,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

B File No. 48 of 1909

Serial No.

selves and then hold the ~~sole~~ bonus payable as caution money? I would draw kind attention to the practice of the Postal insurance scheme as shown in the Post Master General's reply.

Draft in this file have not been sent

Draft
2nd
9536
5.1.10

2/1/11

I note that the rules & practice remain as they are — The Rep^{ve} of the Postal Insurance Clients annexed in paper (marked A) in the 1st Commerce Note (6.11). 11 Jan 11

2nd Opy

13/1/11

I am not convinced & therefore regret to say that I am of the same opinion. The Concession referred to in the 1st Cl's Note, is not a concession properly as it only benefits one party at the expense not of the 'Conceding'

NOTE—Contn. sheet.

GPB—60,000—12-8-10

Serial No.

authority but of a third party. However as I am in the minority, the matter should of course be dropped.

16/4/11

File in the papers

8/4/11

16/4/11

Rep. with Case-work for possible future reference

8/4/11

GPB—50,000—12-8-10

G.R.S. 26]

File No. 48
Serial No. 3

Diary No. of letter replied to _____

Pol. No. 1046.

General and Revenue Secretariat
( )
the 190

To
The First Asst Resident

Date of issue 9 — 6 — 1910

Signed by Mr P. G. D'Souza

Sir,

I am directed to request you to ~~forward a list of the Durbar~~ state whether the bonuses ~~amount~~ payable in the Postal Remittance Scheme or ~~the~~ several Service and deposit funds are allowed to be set off against any sum due to the deposit or and if so to be favoured with the details of the ~~two~~ rules and procedure in respect thereof.

obtain information for the Durbar

in British India

I have &c
CSD
Secy
9.6.10.

over

SUBJECT.

Copied by
S McLean
9/6

List of enclosures,

Copied by

Examined by

?B— 10,000—28-5-08

D 2914

Letter No.B.K.8-32.-5683, dated the 12th July 1910, from the Chief Superintendent, Accountant General's Office, Madras, to the First Assistant to the Hon'ble the Resident in Mysore, Bangalore.

With reference to your letter No.3676, dated 14th June 1910, enquiring whether bonuses payable in the Postal Insurance Scheme, &c., are allowed to be set off against sums due by the insured persons to Government, I have the honour to forward herewith a copy of letter No.L.34/23306, dated 7th July 1910, from the Postmaster-General, Madras, regarding bonuses relating to Postal Insurance Fund. I do not find that similar bonuses are payable under the rules of the provident funds subject to the audit of this office.

I regret that no information on the subject is available in this office as regards other service Funds.

Mysore Resident's Office,
Bangalore, dated the 19th July 1910.

No. 4318

A copy of the foregoing letter, with a copy of the enclosure received therewith, is forwarded to the Government of His Highness the Maharaja of Mysore, for information, with reference to Mr. Balasundaram Iyer's letter No.1046-Pol., dated the 9th June 1910.

H. G. Grey Major,
First Assistant Resident.

K.M.,

E. P. B.—7-1910.—1,000.

3

Letter No.L.34/23306, dated the 7th July 1910, from the Postmaster-General, Madras, to the Accountant General, Madras.

With reference to your telephone message dated the 7th July 1910, I have the honour to say that there is no provision in the rules of the Postal Life Insurance Fund for the payment of any bonus to the policy holders o their legal representatives but the term is generally applied to the increase of ten per cent in the value of life insurance policies issued prior to the 1st April 1907, sanctioned by the Government of India, in Commerce and Industry Department, Resolution No.4519-4554-47, dated the 29th May 1907.

2. As the value of the policy including the increase --- referred to above, is payable only after the death of the insurant, the amount cannot be set off against any sum due to -- Government without an order from a competent Court of Law.

C o p y.

G. S. Tummalacharya

R e g i s t r a r

Mysore Resident's Office.

K.M.